



Employment Opportunity Commission advocates for use of the term “religious nonconformity claim.” We agree that this is a better term.”)(internal citations omitted).

The Tenth Circuit, in *Shapolia v. Los Alamos Nat. Lab’y*, 992 F.2d 1033, (10th Cir. 1993), outlined a framework specifically for cases of religious nonconformity:

Thus, in order to establish a prima facie case in actions where the plaintiff claims that he was discriminated against because he did not share certain religious beliefs held by his supervisors, we hold that the plaintiff must show (1) that he was subjected to some adverse employment action; (2) that, at the time the employment action was taken, the employee's job performance was satisfactory;<sup>5</sup> and (3) some additional evidence to support the inference that the employment actions were taken because of a discriminatory motive based upon the employee's failure to hold or follow his or her employer's religious beliefs.

*Shapolia* at 1038.

In addition to the Tenth Circuit, the Second and Seventh Circuits have adopted this framework in cases similar to this matter. *See Owens v. City of New York Dep't of Educ.*, No. 21-2875, 2022 WL 17844279 (2d Cir. Dec. 22, 2022); *Sattar v. Motorola, Inc.*, 138 F.3d 1164, 1170 (7th Cir. 1998). The Middle District of Tennessee has also employed the *Shapolia* framework. *See Nichols v. Snow*, No. 3:03-0341, 2006 WL 167708, at \*12 (M.D. Tenn. Jan. 23, 2006); *Myrick v. Publix Super Markets, Inc.*, No. 3:16-CV-690, 2017 WL 2362491, at \*6 (M.D. Tenn. May 31, 2017).

Given the above, the Sixth Circuit’s ruling in this case, and the District’s previous use of the *Shapolia* approach, the Court should exclude any argument or evidence based on the *McDonnell Douglas* burden shifting framework as it relates to Plaintiff’s religious nonconformity claim.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the above and foregoing was served electronically via the Court's CM/ECF system this 23rd day of June, 2025 to the following:

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